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BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 91-159-W/S - ORDER NO. 91-615 ✓
JULY 22, 1991

IN RE: Application of North County Service) ORDER
Company, Inc. for Approval to Operate) APPROVING
a Water and Sewer Service and Approval) SERVICE AREA
of a Schedule of Rates and Charges for) AND RATES
Water and Sewer Service Provided to) AND CHARGES
Customers in York County, South Carolina.)

By Application filed February 22, 1991, North County Service Company, Inc. (North County or the Company) seeks approval to operate a water and sewer system and to implement a schedule of rates and charges for water and sewer service provided to its customers in York County, South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-5-240 (Supp. 1990) and 26 S.C. Regs. §103-821 (1976). In addition, North County has submitted three contracts between itself and developers for this Commission's approval pursuant to 26 S.C. Regs. 103-503 and 103-703.

Subsequent to the initiation of this proceeding, the Executive Director of the Commission instructed the Applicant to cause to be published a prepared Notice of Filing in certain newspapers of general circulation in the affected area and to furnish the same information to each customer. The Notice of Filing indicated the nature of the Application and advised all interested parties desiring to participate in the proceeding of the manner and time in

which to file the appropriate pleadings. A Petition to Intervene was filed by the Consumer Advocate for the State of South Carolina (the Consumer Advocate).

A public hearing was held in the offices of the Commission on June 11, 1991, at 11:00 a.m. A panel of three Commissioners was appointed to hear and rule on this matter pursuant to S.C. Code Ann. §58-3-95 (Supp. 1990). The Honorable Cecil A. Bowers presided. The other members of the hearing panel were Commissioners Butler and Fuller. The Company was not represented by counsel, but Haines A. Maxwell, Sr., its President, presented testimony on its behalf. The Consumer Advocate was represented by Carl F. McIntosh, Esquire, and the Commission Staff was represented by Gayle B. Nichols, Staff Counsel. Neither the Consumer Advocate nor the Commission Staff presented the testimony of any witnesses.

After a thorough consideration of the Application (Hearing Exhibit 2), the evidence, and the applicable law, the Commission makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. North County was formed in 1986 at the request of the South Carolina Department of Health and Environmental Control (DHEC) to supply water and sewer service to an area of York County, South Carolina located south of Carowinds Boulevard, north of Gold Hill Road, and between South Carolina Route 21 and Route 160.

2. North County has contracts to supply service to three major housing developments of over 1,100 homes and to more than 300 acres of business development. Currently, North County serves 123 customers.

3. North County's water is pumped from two deep wells, each with a 300 gallons per minute rating. A 100,000 gallon elevated storage tank is used for storage and pressure. North County's water system is capable of serving 1,149 units.

4. Presently, North County has an existing 100,000 gallon wastewater plant which will accommodate 250 customers. North County has obtained the permits necessary to construct a 400,000 gallon waste treatment plant which will serve 1,000 units.

5. North County proposes to charge a \$7.00 monthly Basic Facilities Charge for water service to single-family homes, condominiums, mobile homes, and apartment units and \$7.00 per SFE¹ for commercial customers. In addition, the Company proposes to charge both residential and commercial customers a commodity charge of \$2.60 per 1,000 gallons. North County proposes a special commodity charge of \$1.00 per 1,000 gallons for the Homeowners' Association and residential customers who use water for swimming pools and irrigation.

1. Single-family equivalency.

6. North County proposes a \$25.00 one-time Customer Account Charge and a \$35.00 reconnection fee for water service. The Company proposes to charge its customers a \$4.00 charge for notice of disconnection.

7. For its water service, North County proposes to charge an aid in construction fee of \$1,664.00 per SFE during 1991. North County proposes to increase this charge by 10% per year after 1991.

8. North County proposes to charge a monthly flat rate of \$25.00 per unit for sewer service for residential customers and a monthly rate of \$25.00 per SFE for sewer service for commercial customers.

9. North County proposes to charge a one-time \$25.00 Customer Account Charge to defray initiation of sewer service to customers who do not have North County water service. North County also proposes a \$250.00 reconnection fee and a \$5.00 fee for notice of disconnection of sewer service.

10. For its sewer service, North County proposes to charge an aid in construction fee of \$1,664.00 per SFE during 1991. North County proposes to increase this charge by 10% per year after 1991.

11. North County's January 1987 contracts with three developers, Quail Ridge, Beacon Knoll, and Bailywick, indicate that the Company agreed to expand its existing wastewater treatment facilities to accommodate development in the Company's proposed service area. The contracts state that the developers agreed to pay North County \$2,500 per sewer tap, or \$6.25 per gallon of capacity as an aid in advance of construction. One contract indicated that

the cost of taps shall "not increase more than 10% from the cost within the last twelve months...". The contracts indicate that North County will also provide the developers with water service.

12. At the hearing, Mr. Maxwell testified that North County's agreements with the three developers provided for an original fee of \$1,250 per tap plus an additional 10% per year as aid in advance of construction. He testified that this original \$1,250 per tap was based on North County's investment and its need to pay its bills and make a profit. Maxwell stated that the 10% escalation clause was added in order for North County to recover the carrying costs on its outstanding loan balance. North County indicated that since its inception it has collected \$620,000 as contributions in aid of construction. Hearing Exhibit 1.

13. Maxwell testified that North County's proposed aid in advance of construction of \$1,664 for water and \$1,664 for sewer in its proposed rate schedule is based on the Company's agreements with the developers. He testified that in determining these fees, North County did not determine the Company's investment in its sewer plant and water plant. Maxwell stated that the proposed water and sewer aid in advance of construction fees are the same because all of the Company's sewer customers also have water service.

14. Maxwell testified that North County proposed a \$1.00 per 1,000 gallon rate for water for swimming pools and irrigation because the Company believed large volume users should have a discount. Maxwell admitted that the water pumped to swimming pools

and for irrigation was the same quality as that used for household purposes and that customers who do not have swimming pools or irrigation systems would be subsidizing those customers who do.

15. The Company's Application indicates that North County's combined investment is \$1,536,224, that North County's projected annual revenues from water and sewer for the first six months of 1991 is \$41,400,² and that the Company's projected annual operating expenses are \$118,790. Mr. Maxwell testified that in determining North County's depreciation and interest expenses, the Company did not reduce water and sewer plant by the \$620,000 received from developers as contributions in aid of construction. Mr. Maxwell testified North County did not project it would earn a profit for several years because the Company's investment was substantial and the subdivisions had not developed as expected.

16. Based on North County's Application, Staff determined that the Company's proposed rates and charges, excluding contributions in aid of construction, would generate annual revenues of \$71,409³ and that North County's requested proposed rates and charges which would produce a (220.39%) operating margin.

2. The Company estimated its average monthly usage of water would be 6,000 gallons per customer. Hearing Exhibit 1.

3. Staff determined proposed operating revenues by using water usage of 6,300 gallons per customer per month. The average water consumption in all of the Commission's filings is 6,300 gallons per customer per month.

17. During cross-examination by the Consumer Advocate, Mr. Maxwell testified he drafted the Company's financial exhibits based on the Company's last financial statement prepared by an accountant. He testified that an accounting firm told him that \$16,000 was an accurate figure for North County's Group Insurance/FICA/Worker's Compensation/Liability Insurance expense if the Company had one employee. Mr. Maxwell admitted that the accounting firm did not study North County's operation before making this recommendation and that North County has no documentation supporting this expense.

18. On cross-examination by Staff Counsel, Mr. Maxwell testified North County's projected legal expense of \$1,200 was included in case the Company needed to hire an attorney. Mr. Maxwell also testified that the Company's projected \$5,000 contingency expense was recorded on the Company's books in case it had to make unexpected repairs.

CONCLUSIONS OF LAW

1. The Commission exercises general supervisory and regulatory jurisdiction over public utilities such as North County in respect to approval of service areas and establishment of rates and charges pursuant to the following statutory mandate:

§ 58-5-210. Supervision and regulation of rates and service.

The Public Service Commission is hereby, to the extent granted, vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State, together with the power, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices and measurements of service to be furnished, imposed, observed and followed by every public utility in this State and the State hereby asserts its rights to regulate the rates and services of every "public utility" as herein defined.

S.C. Code Ann. §58-5-210 (1976).

2. North County is a public utility within the meaning of S.C. Code Ann. §58-5-10(3)(1976) if it sells water and/or sewer service to the public for compensation.

3. The Commission finds that there is a need for water and sewer service in the area of York County where North County seeks approval of a service area. The Commission further finds that North County has been providing water and sewer service, without a monthly charge, to its customers over the past several years. The Commission concludes that North County is fit, willing, and able to provide the proposed water and sewer service in the requested service area.

4. The Commission finds that the appropriate basis for calculating the operating margin approved by this Order is North County's revenues and expenses attributable to 123 customers using 6,300 gallons of water per month. The Commission finds that, based on the average use of water in its filings, the average monthly water consumption per month per household is 6,300 gallons.

Accordingly, the Commission finds that the North County's proposed rates and charges, excluding contributions in aid of construction, will produce \$71,409.00 in annual revenues.

5. In regard to particular expense projections, the Commission makes the following determinations:

(A) Depreciation and Interest Expense

The Commission finds that \$620,000 acquired as contributions in aid of construction should be deducted from North County's investment in plant prior to calculating the Company's depreciation and interest expenses. North County's ratepayers should only be required to shoulder investment and plant expenses which were supplied by the utility's own or borrowed funds. Accordingly, the Commission finds that the Company's appropriate annual depreciation expense is \$30,510 and the appropriate annualized interest expense is \$106,286.

(B) Group Insurance/FICA/Workers'
Compensation/Liability Insurance

The Commission disallows North County's projected \$16,000 expense attributable to Group Insurance/FICA/Workers' Compensation/Liability Insurance. Mr. Maxwell testified North County intended to hire only one full-time employee at an annual salary of \$24,000. He also testified that the \$16,000 insurance expense for this employee is not documented by a report but was merely a recommendation from an accounting firm. Based on its own expertise in this matter, the Commission determines that an expense of \$16,000 for insurance and FICA for one employee earning an

annual salary of \$24,000 is inappropriate. Accordingly, the Commission disallows this expense.

(C) Legal and Contingency Expenses

The Commission disallows the Company's proposed \$1,200 annual legal expense and the \$5,000 annual contingency expense. Mr. Maxwell testified that North County had not had any legal expenses and was including this expense in case it were to incur legal expenses in the future. Mr. Maxwell testified that the contingency expense was included to cover unexpected repairs to the systems.

The Commission finds that only those expenses which a utility reasonably expects to incur are properly allowed for ratemaking purposes. Accordingly, the Commission disallows these expenses. At such time as the utility incurs increased or additional expenses which it does not recover through its approved rates, the utility can seek a rate increase.

(D) Postage Expense

North County projects an annual expense of \$2,500 for postage. The Commission concludes that this estimated expense for 123 customers is excessive. Accordingly, the Commission decreases this expense to \$500.⁴

The Commission finds that all other projected annual expenses submitted by the Company are reasonable.

4. The Commission will allow \$500 as an expense. The Commission finds that North County will incur \$428 in annual postage expenses for mailing bills once a month to each of 123 customers.

6. Based on the above determinations, the Commission concludes that North County's adjusted operating expenses are \$94,590.

7. Under the guidelines established in the decisions of Bluefield Waterworks and Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923), and Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944), this Commission does not ensure through regulation that a utility will produce net revenues. As the United States Supreme Court noted in Hope, a utility "has no constitutional rights to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures." However, employing fair and enlightened judgment and giving consideration to all relevant facts, the Commission should establish rates which will produce revenues "sufficient to assure confidence in the financial soundness of the utility and . . . that are adequate under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties." Bluefield, supra, at 692-693.

8. The three fundamental criteria of a sound rate structure have been characterized as follows:

...(a) the revenue-requirement or financial-need objective, which takes the form of a fair-return standard with respect to private utility companies; (b) the fair-cost apportionment objective which invokes the principle that the burden of meeting total revenue requirements must be distributed fairly among the beneficiaries of the service; and (c) the optimum-use or consumer rationing under which the rates are designed to discourage the wasteful use of public utility services

while promoting all use that is economically justified in view of the relationships between costs incurred and benefits received.

Bonbright, Principles of Public Utility Rates (1961), p. 292.

In applying the above-referenced principles, the Commission must balance the interests of the utility--the opportunity to make a profit while providing adequate service--with the interest of its customer--to receive adequate service at a fair and reasonable rates.

9. Based on the considerations enunciated in Bluefield and Hope, on the fundamental criteria of a sound rate structure as stated in Principles of Public Utility Rates, on North County's proposed operating margin, and Mr. Maxwell's testimony that North County did not expect to earn a profit for several years because its investment was substantial and the subdivisions had failed to develop as anticipated, the Commission determines that the appropriate operating margin with interest for the Company is (230.87%). The Commission notes that this operating margin differs from that which the Company proposed by 4.5%. In order to have a reasonable opportunity to produce a (230.87%) operating margin, the Company will need to produce \$69,933 in annual operating revenues.

10. In order to produce the necessary \$69,933 in operating revenues, the Commission approves the following schedule of rates and charges as explained below and set forth in Appendix A.

A. The Commission disapproves the Company's proposed \$7.00 monthly Basic Facilities Charge per SFE for water; instead, the Commission approves a \$6.00 monthly Basic Facilities Charge for water usage.

B. The Commission disallows North County's proposed discounted commodity charge for irrigation and swimming pool uses. In order to prevent one customer from subsidizing another, the Commission concludes that the rates for water used to irrigate lawns and fill swimming pools which is the same quality of water as used for ordinary household purposes should not be less than that charged for water used for ordinary household purposes. Accordingly, the Commission approves a Commodity Charge of \$2.60 per 1,000 gallons for all water usage.

C. The Commission approves North County's proposed \$25.00 one-time Customer Account Charge for water or sewer service. The Commission approves North County's proposal not to charge a Customer Account Charge to a sewer customer who also takes water service.

D. The Commission approves the Company's proposed \$35.00 reconnection charge for water service and its proposed reconnection charge of \$250.00 for sewer service as stated by 26 S.C. Regs. 103-532.4 (Supp. 1990).

E. The Commission approves the late payment charge of 1½% of the unpaid balance remaining on a water or sewer customer's bill after twenty-five days. 26 S.C. Ann Regs. 103-532.2 and 103-732.3 (Supp. 1990).

F. The Commission approves the \$4.00 notification fee for water customers to whom North County mails a notice under 26 S.C. Regs. 103-735(H)(Supp. 1990) and the \$5.00 notification fee for sewer customers to whom North County mails a notice under 26 S.C. Regs. 103-535.1.

G. The Commission approves the proposed \$25.00 monthly fee for sewer service.

H. The Commission denies the proposed aid in construction fee of \$1,664.00 per SFE during 1991 and the proposed increase of 10% per each year after 1991. The Commission finds that these proposed fees are actually tap fees for water and sewer service. Further, the Commission concludes that the evidence of record does not support the requested tap fees by indicating a labor charge for making the tap or the plant capacity per tap as required by 26 S.C. Regs. 103-502.11 and 103-702.14 (Supp. 1990). Finally, the Commission disapproves any tap fee which escalates over a period of time.

11. The Commission disapproves the three contracts submitted with the Company's Application on the ground that they do not adequately and clearly explain the contribution in aid of construction to be paid by the developers.

IT IS THEREFORE ORDERED:

1. That North County Service Company, Inc. is granted a Certificate of Public Convenience and Necessity to operate as a water and sewer utility in York County, South Carolina.

2. That the schedule of rates and charges for North County Service Company, Inc. as set forth in Appendix A is approved and may be charged for service rendered on or after the date of this Order.


3. That North County Service Company, Inc. shall maintain its books and records for its water and sewer operations in accordance with NARUC system of accounts for Class B Water and Sewer Utilities.

4. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director

(SEAL)

WATER

MONTHLY CHARGES:

1. GALLON METERS

Basic Facilities Charge - Residential ----- \$6.00
Monthly charge per single-family house,
condominium, mobile home or apartment unit:

Commodity Charge:----- \$2.60 per 1,000 gal

Basic Facilities Charge - Commercial ----- \$6.00 per SFE

Commodity Charge:----- \$2.60 per 1,000 gal
Commercial customers are those not included in the
residential category above and include, but are not
limited to, hotels, stores, restaurants, offices,
industry, etc.

When, because of the method of water line installation
utilized by the developer or owner, it is impractical
to meter each unit separately, service will be provided
through a single meter, and consumption of all units will
be averaged; a bill will be calculated based on that average
and the result multiplied by the number of units served by a
single meter.

2. ACCOUNT SET-UP AND RECONNECTION CHARGES

A. Customer Account Charge: A fee of twenty five dollars (\$25.00)
shall be charged as a one-time fee to defray the costs of
initiating service.

B. Reconnection Charges: In addition to any other charges
that may be due, a reconnection fee of thirty five dollars (\$35.00)
shall be due prior to the Utility reconnecting service which has
been disconnected for any reason set forth in Commission Rule
R.102-732.4.

C. Notification Fee: A fee of four dollars (\$4.00) shall
be charged to each customer to whom the Utility mails the
notice as required by Commission Rule R.103-535.1 prior to
service being discontinued. This fee assesses a portion
of the clerical and mailing costs of such notices to the
customers creating the costs.

3. BILLING CYCLE

Recurring charges will be billed monthly in arrears.

4. LATE PAYMENT CHARGES

Any balance unpaid within twenty-five (25) days of the
billing date shall be assessed a late payment charge of
one and one-half percent (1 1/2%) for each month, or any
part of a month, that said payment is late.

SEWER

MONTHLY CHARGES:

1. CHARGE FOR SEWAGE COLLECTION AND TREATMENT SERVICE

Residential----- \$25.00 per unit
Monthly charge per single-family house,
condominium, villa, or apartment unit:

Commercial----- \$25.00 per SFE
Commercial customers are those not included in the
residential category above and include, but are not
limited to, hotels, stores, restaurants, offices,
industry, etc.

2. NOTIFICATION, ACCOUNT SET-UP AND RECONNECTION CHARGES

A. Customer Account Charge: A fee of twenty five dollars (\$25.00) shall be charged as a one-time fee to defray the costs of initiating service. This charge will be waived if the customer also takes water service.

B. Reconnection Charges: In addition to any other charges that may be due, a reconnection fee of two hundred fifty dollars (\$250.00) shall be due prior to the Utility reconnecting service which has been disconnected for any reason set forth in Commission Rule R.103-532.4. The amount of the reconnection fee shall be in accordance with R.103-532.4 and shall be changed to conform with said rule as the rule is amended from time to time.

C. Notification Fee: A fee of five dollars (\$5.00) shall be charged to each customer to whom the Utility mails the notice as required by Commission Rule R.103-535.1 prior to service being discontinued. This fee assesses a portion of the clerical and mailing costs of such notices to the customers creating the costs.

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Recurring charges will be billed monthly in arrears.

4. LATE PAYMENT CHARGES

Any balance unpaid within twenty-five (25) days of the billing date shall be assessed a late payment charge of one and one-half percent (1 1/2%) for each month, or any part of a month, that said payment is late.